

<b>Notice of Allowability</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/659,590	BORST ET AL	
	Examiner Nittaya Juntima	Art Unit 2663	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1.  This communication is responsive to 1/28/05.
2.  The allowed claim(s) is/are 1-28.
3.  The drawings filed on 28 January 2005 are accepted by the Examiner.
4.  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a)  All    b)  Some\*    c)  None    of the:
    1.  Certified copies of the priority documents have been received.
    2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3.  Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5.  A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6.  CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
  - (a)  including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
    - 1)  hereto or 2)  to Paper No./Mail Date \_\_\_\_\_.
  - (b)  including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7.  DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

#### Attachment(s)

1.  Notice of References Cited (PTO-892)
2.  Notice of Draftperson's Patent Drawing Review (PTO-948)
3.  Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4.  Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5.  Notice of Informal Patent Application (PTO-152)
6.  Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7.  Examiner's Amendment/Comment
8.  Examiner's Statement of Reasons for Allowance
9.  Other \_\_\_\_\_

### **DETAILED ACTION**

1. This action is in response to the amendment filed on 1/18/2005.
2. The objections to the drawings, specification, and claims are withdrawn in view of applicant's amendment.

#### *Response to Arguments*

3. Applicant's arguments, see pages 17 and 18, filed 1/18/2005, with respect to independent claims 1, 9, and 19 have been fully considered and are persuasive. The rejection of claims 1, 9, and 19, and their respective dependent claims has been withdrawn.

#### *Allowable Subject Matter*

4. Claims 1-28 are allowed. The prior art alone or in combination fail to teach or make obvious on the following when considered in combination with other limitations in the claim: second measuring, for at least one idle time slot, interference for a second period at a second rate on the frequencies in the first list to be used for frequency hopping as recited in the independent claims 1, 9, and 19.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

#### *Conclusion*

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5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- USPN 6,108,321, disclosing interference based dynamic channel assignment having a long-term channel list and a short-term channel list.

- USPN 5,963,865, disclosing traffic channel assignment using an uplink interference driven frequency packing method.

- USPN 6,640,104, disclosing dynamic channel assignment having short term RSSI measured over a shorter interval than a long term RSSI.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nittaya Juntima whose telephone number is 571-272-3120. The examiner can normally be reached on Monday through Friday, 8:00 A.M - 5:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky Ngo can be reached on 571-272-3139. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306 (**571-273-8300, effective 7/15/2005**).

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Nittaya Juntima

June 24, 2005

*NJ*

*Ricky Ngo*  
RICKY NGO  
PRIMARY EXAMINER  
*9/27/05*